

Nineteen Hundred Thirty-One
Supplement

to

Mason's Minnesota Statutes

(1927 thru 1931)

Containing the text of the acts of the 1929 and 1931 Sessions of the
Legislature, both new and amendatory, and notes showing repeals,
together with annotations from the various courts, state
and federal, construing the constitution, statutes,
charters and court rules of Minnesota



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PREFACE

THE 1931 Supplement to Mason's Minnesota Statutes makes its appearance to simplify the work of the Minnesota lawyer in his use of the Minnesota Statutes. Mason's Minnesota Statutes, 1927, in two volumes and this Supplement, constitute a complete presentation of the Minnesota law down to August, 1931.

This Supplement obviates the use of the session laws of 1929 and 1931, and of the two permanent and the August, 1931, numbers of the Quarterly Continuation Service, by combining, under one cover, two session laws, three annotation pamphlets, two sets of court rules, and a complete set of conveyancing forms.

The annotations cover the period which has elapsed since the publication of Mason's Minnesota Statutes, 1927, and are derived from the U. S. Supreme Court Reports, the Federal Reporter, the Northwestern Reporter and the Opinions of the Attorney General.

The ninety-three standard conveyancing forms provided by Laws 1931, Chap. 272, have been incorporated in this Supplement as Appendix No. 1, pages 491 to 551.

Laws which have been repealed, and those of a local nature, as well as City Charters and Municipal Ordinances, which could not be properly included in a general statute but which are the subject of litigation, are annotated in Appendices Nos. 2 and 3, pages 552 to 554.

The Rules of the Minnesota Supreme Court and the District courts are brought to date in Appendix No. 4, pages 554 to 568.

Stalland's Minnesota Curative Acts is brought up to date by Appendix No. 5 on page 569.

The table of Statutes on pages 572 to 582 indicates the disposition of the various laws contained in this Supplement.

The 1930 Supplement to Dunnell's Digest may be brought to date by the use of the "Table of References to Dunnell's Digest," found on page 583 of this Supplement, which table directs you from a Dunnell section to the section of this Supplement where later cases are to be found.

The index is complete in its scope, not only directing you to the subject matter of the statutes contained herein, but also to the common law decisions which have been set forth as "Decisions relating to in general" at the end of appropriate chapters.

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Table of Contents

	PAGE
1. Northwest Territorial Government (Ordinance of 1787)	1
2. Act authorizing a State Government.....	1
3. Constitution of the State of Minnesota.....	2
4. Mason's Minnesota Statutes.....	11
5. Appendix No. 1—Conveyancing Forms.....	491
6. Appendix No. 2—Session Laws	552
7. Appendix No. 3—City Charters	554
8. Appendix No. 4—Court Rules	
Supreme Court	554
District Court	555
9. Appendix No. 5—Stalland's Curative Acts.....	569
10. Table of Statutes.....	572
11. Table of References to Dunnell's Digest.....	583
12. General and Common Law Index.....	587

Scope of annotations:

Minnesota Reports.....	171M to 182M
Northwestern Reporter.....	213NW563 to 237NW584
United States Reports.....	to 283US494
Federal Reporter.....	to 50F(2d)344
Opinions of Attorney General.....	to Aug., 1931

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Northwest Territorial Government

(ORDINANCE OF 1787)

Art. 4.

Federal court, held not to have jurisdiction of suit by riparian owner to restrain filling of

navigable water. *Leitch v. Chicago* (CCA7), 41F (2d)728. See Dun. Dig. 3744. Certiorari denied. 51SCR106.

Act Authorizing a State Government

§2.

The taking of muskrats in the waters of a lake forming the boundary between Minnesota and South Dakota within the closed season es-

tablished by the laws of Minnesota is an offense against the laws of Minnesota irrespective of the location of the boundary line. Op. Atty. Gen., Jan. 6, 1930.

Constitution of the State of Minnesota

PREAMBLE

The test of the constitutionality of a statute is not what has been, but what may be done pursuant to its authority. State ex rel. v. Rural Credits Bureau, 235NW380. See Dun. Dig. 1576 (43).

Article 1.—BILL OF RIGHTS.

§2. Rights and privileges of citizens.

G. S. 1923, §1614, and ordinances passed thereunder, zoning cities, is valid. 21F(2d)440.

State banking corporations are properly placed in a class by themselves for the purposes of legislation, and Laws 1925, c. 38, is not class or special legislation. 174M36, 218NW238.

Laws 1925, c. 185 (Mason's Minn. Stat., 1927, §§5015-1 to 5015-19) is valid. 174M331, 219NW 167.

A city ordinance requiring licenses for open-air automobile parking places was not invalid because it did not extend to parking places for less than ten cars. 175M386, 221NW423.

Laws 1925, c. 407, known as the Forestry Act [4031-1 to 4031-35] does not offend the equality provisions of the Constitution. 176M 472, 223NW912.

It was competent for the Legislature to classify counties and to impose more drastic regulations for prevention of fires in certain counties than in others. 176M472, 223NW912.

Provisions of city charter of St. Paul authorizing city council to fix and affirm amount of damages for taking of land in a condemnation proceeding with right of appeal to the district court do not violate this section. 177M146, 225 NW86.

Provision of land owner to give a bond for costs in order to perfect an appeal could be held nugatory without affecting other provisions. 177M146, 225NW86.

Laws 1929, cc. 267, 424, admitting disabled veterans and court reporters to the practice of law without examination, violate this section. 178M331, 227NW179; 178M335, 227NW180.

Basic Science Act (Mason's Minn. St. §§5705-1 et seq.), held not invalid because it exempts certain practitioners from its operation. 181M 341, 232NW517. See Dun. Dig. 1675, 7483(26).

A complaint, charging that the plaintiff, on entering a cafeteria for the purpose of being served food, was told that he was too dirty to be served and would have to get out, and was refused service, when in fact his clothing and person were clean, does not state a cause of action either for slander or for deprivation of any civil rights. Larson v. R., 235NW393. See Dun. Dig. 4509.

A city selling electricity to persons outside its limits under contract may discriminate in favor of residents of the city. Guth v. Staples, 237NW411.

An American who served in a Canadian army during the World War, and presumably swore allegiance to the King, is permitted to resume his citizenship, by taking the oath of allegiance of the United States, without submitting to the usual process of naturalization. Op. Atty. Gen., July 6, 1931.

§3. Liberty of the press.

Mason's Minn. Stat., §§10123-1 to 10123-3, are valid. 174M457, 219NW770.

Mason's Minn. Stat., §§10123-1 to 10123-3, providing for abatement as nuisance of obscene publication, held valid. 179M40, 228NW326. Rev'd, 51SCR625.

§4. Trial by jury.

Mason's Minn. Stat., §§10123-1 to 10123-3, are valid. 174M457, 219NW770.

On appeal from order admitting will to probate there is no right to trial by jury, such a trial being discretionary. 180M256, 230NW781.

The provision in the Minnesota standard policy for arbitration or appraisal in case of dis-

agreement as to loss is not violative of article 1, §§4 and 7, of the State Constitution or of the Fourteenth Amendment of the Federal Constitution. 181M518, 233NW310. See Dun. Dig. 1646, 4793(85), 5227.

Where defendant admitted facts showing he was guilty, instruction failing to tell jury that they could find him not guilty was harmless. State v. Corey, 233NW590. See Dun. Dig. 2490 (44).

It was error to charge the jury that the only issue was whether defendant was guilty of robbery in the first degree or of an attempt to commit such robbery, for in any criminal prosecution the jury has the power to return a verdict of not guilty, even though contrary to the law and the evidence. State v. Corey, 233 NW590. See Dun. Dig. 5236.

§6. Rights of accused.

Where defendant admitted facts showing he was guilty, instruction failing to tell jury that they could find him not guilty was harmless. State v. Corey, 233NW590. See Dun. Dig. 2490 (55).

It was error to charge the jury that the only issue was whether defendant was guilty of robbery in the first degree or of an attempt to commit such robbery, for in any criminal prosecution the jury has the power to return a verdict of not guilty, even though contrary to the law and the evidence. State v. Corey, 233 NW590. See Dun. Dig. 79, 5235(39).

Right of defendant to appeal after plea of guilty in municipal court. Op. Atty. Gen., Dec. 9, 1930.

1. Speedy and public trial.

Defendant's silence, in the face of numerous continuances and long delay, waives right to a speedy trial. 173M153, 216NW787.

2. To be informed of nature of accusation.

Information alleging the stealing of men's clothing in the night-time, without alleging that it was taken from a building, charged second degree and not first degree grand larceny. 172M139, 214NW785.

Mason's Statutes, §5547, relating to possession of raw skins of fur-bearing animals and burden of proof, does not violate this section. 177M 398, 225NW435.

Indictment charging that defendant did "ask, agree to receive, and receive" a bribe was not duplicious or repugnant. 178M437, 227NW497.

3. To be confronted by witnesses.

Mason's Statutes, §5547, relating to possession of raw skins of fur-bearing animals and burden of proof, does not violate this section. 177M 398, 225NW435.

§7. Same—Due process of law—Bail—Habeas corpus.

½. In General.

Mason's Minn. St., §§10123-1 to 10123-3 providing for abatement as nuisance of obscene publication, held valid. 179M40, 228NW326. Rev'd, 51SCR625.

The provision in the Minnesota standard policy for arbitration or appraisal in case of disagreement as to loss is not violative of article 1, §§4 and 7, of the State Constitution or of the Fourteenth Amendment of the Federal Constitution. 181M518, 233NW310. See Dun. Dig. 1646, 4793(85), 5227.

1. Twice in jeopardy.

The same acts may constitute an offense against a statute and also a violation of a city ordinance, in which case a conviction under one is no bar to a prosecution under the other. 171 M505, 214NW479.

The procedure prescribed in Laws 1927, c. 236 (§§9931 to 9931-4), does not place the defendant twice in jeopardy. 175M508, 221NW900.

The doctrine of double jeopardy has no application in proceedings to punish for contempt, and each succeeding refusal to answer the same

questions will ordinarily be a new offense. 224NW838.

Offenses under Mason's Minn. St. §§10135, 10136 are continuing and former conviction does not preclude prosecution for subsequent offense. 179M32, 228NW337.

A city ordinance regulating the licensing and operating of taxicabs and providing for revocation at any time for cause, after hearing, is valid, though the charter provides in general terms that such license may be revoked at any time. National Cab Co. v. K., 233NW838. See Dun. Dig. 1646.

Where municipal court exceeded its jurisdiction and convicted one of unlawfully killing a deer, and on his failing to pay fine confined him in jail, and conviction was held void on habeas corpus, he could be tried again for the offense with which he was charged. Op. Atty. Gen., Feb. 20, 1931.

2. Self-incrimination.

Defendant cannot complain merely because he was called before the grand jury which indicted him, where he was not compelled to testify. 171M429, 214NW270.

Production of books and papers under Blue Sky Law. 172M328, 215NW168.

While a witness for state may not testify to a part of a transaction and then successfully claim his privilege against self incrimination to avoid giving the whole of it, a defendant cannot claim prejudice where the whole transaction was ultimately gone into by other witnesses. 173M391, 217NW343.

In proceeding to remove, held that defendant officer was deprived of his constitutional rights against self incrimination. 173M512, 217NW935.

Refusal to testify upon ground that testimony might incriminate did not justify inference of guilt. 173M512, 217NW935.

Section 9982, providing that no person shall be excused from testifying in a prosecution for bribery, etc., does not violate this section. 176M308, 223NW144.

There was no error in refusing to hold that weapon was not loaded nor admitting it in evidence against objection that, because the prosecuting witness had by force taken it from defendant, it would virtually be compelling defendant to furnish evidence against himself. 176M238, 222NW925.

Person accused of arson was denied constitutional guaranty against self incrimination where he was subpoenaed by the fire marshal and compelled to testify as to the charge against him. 180M573, 231NW217.

The disclosure in proceedings supplementary to execution cannot be used in a criminal proceeding against the judgment debtor; but a fact shown in it may be considered in determining want of probable cause. Krienke v. C., 235NW 24. See Dun. Dig. 10339.

4. Due process of law defined.

Constitutional provisions for due process and equal protection of the law yield to the police power. 175M73, 220NW425.

House File No. 790, making it an offense to advertise tobacco, cigars or cigarettes by depicting the likeness of any female person, would be unconstitutional if passed. Op. Atty. Gen., Mar. 26, 1931.

5. Held due process of law.

§5630 (6), authorizing game and fish commissioner to set aside waters for fish propagation, is valid. 172M179, 215NW215.

An assessment greatly in excess of special benefit is invalid, and while the test of benefit is the increase in market value of the property after the improvement is made, the Supreme Court cannot review the matter of special benefit where the evidence is not in the record, the conclusion of the municipal authorities being prima facie correct, and the burden of proof being on the objector. 172M554, 216NW318.

Denial of registration of corporate stock for sale under §3996-5 was not without due process. 174M200, 219NW81.

Laws 1925, c. 185 (Mason's Minn. Stat., 1927, §§5015-1 to 5015-19) is valid. 174M331, 219NW 167.

Laws 1927, c. 288 (Mason's Minn. Stat., 1927,

§§2558-1 to 2558-4), is valid. 174M305, 219NW 172.

G. S. 1923, §3512, is constitutional, following Abramowitz v. Continental Ins. Co., 170M215, 212NW449; 175M73, 220NW425.

Tax imposed by Laws 1923, c. 226, not invalid. 175M305, 221NW113.

G. S. 1923, §6717-2, provided due process in proceedings to assess the cost of improving and repairing a county ditch. 177M598, 225NW909.

Mason's Minn. Stat. 1927, §2292, Subd. 5, imposing inheritance tax on property subject to a power of appointment, held valid, though instrument was executed prior to passage of statute. 181M262, 232NW331. See Dun. Dig. 9571.

Basic Science Act (Mason's Minn. St., §5705-1 et seq.), held not invalid because it exempts certain practitioners from its operation. 181M 341, 232NW517. See Dun. Dig. 1675, 7483(26).

Rochester City Ordinance No. 145, regulating pawnbrokers and junk dealers, held valid. 181M596, 233NW862. See Dun. Dig. 1646, 7436.

An ordinance of the city of St. Paul providing for the punishment of a person convicted of driving an automobile while under the influence of intoxicating liquor is valid. State v. Hughes, 233NW874. See Dun. Dig. 1646.

6. Held not due process of law.

Minneapolis ordinance imposing liability on adjoining owners to sheath-pile in making excavation so as to protect walls on the adjoining property held invalid. 172M428, 215NW840.

The venue statute as to foreign corporations (§9214, Mason's Minn. St. 1927) must be construed so as to place such corporations within the equal protection clause of the Fourteenth Amendment of the federal Constitution; as held in Power Mfg. Co. v. Saunders, 274US490, 47SC 678, 71LED1165. Olson v. Osborne & Co., 30M 444, 15NW876, and Eickhoff v. Fidelity & Casualty Co., 74M139, 76NW1030, being in conflict with the decision of the Supreme Court of the United States, are overruled. 178M19, 225NW915.

Laws 1929, c. 361, imposing on express companies license tax on vehicles in addition to gross earnings tax, held invalid. 180M268, 230NW815.

§10. Unreasonable searches and seizures.

Production of books and papers under Blue Sky Law. 172M328, 215NW186.

It would not have been prejudicial error to permit liquor seized without a warrant to be introduced in evidence. 172M130, 214NW778.

§11. Attainder—Ex post facto laws—Impairment of contracts.

1. Ex post facto laws.

Laws 1927, c. 236 (§§9931 to 9931-4), is constitutional. 175M508, 221NW900.

3. Held not to impair contract.

Laws 1925, Chap. 38, does not tend to impair obligation of contract. 174M36, 218NW238.

Valid laws in force at the time a contract is made cannot be said unconstitutionally to impair the obligation of the contract. 174M36, 218NW238.

Mason's Minn. Stat. 1927, §2292, Subd. 5, imposing inheritance tax on property subject to a power of appointment, held valid, though instrument was executed prior to passage of statute. 181M262, 232NW331. See Dun. Dig. 9571.

A public officer has no constitutional right to a continuance of the salary specified at the beginning of his official term, but the legislature is free to reduce it if it sees fit to do so. Op. Atty. Gen., June 23, 1931.

§12. Imprisonment for debt—Exemption from execution.

1. Imprisonment for debt.

A proceeding to coerce payment of money is for a civil contempt. Imprisonment cannot be imposed on one who is unable to pay. 173M100, 216NW606.

2. Exemption of property.

3.—Proviso.

The provision making a homestead non-

exempt from debts incurred for work or materials used in construction, repair, or improvement thereof, is self executing. A claim for such debts does not amount to a lien until proceedings or steps are taken to make it a lien. 172M198, 215NW197.

The right to pursue the homestead is lost by not reducing the claim to a lien prior to debtor's discharge in bankruptcy, under Mason's U. S. Code, Title 11, §§35, 103. 172M198, 215NW 197.

An award under the Workmen's Compensation Act is not a "debt incurred to any laborer or servant for labor or service performed," within the meanings of Const., art. 1, §12, and is not a lien upon the employer's homestead. 175M161, 220NW421.

Constitutional provision does not create liability against the homestead of one who is not the master or employer of the laborer or servant although he has by some collateral contract with the employer made himself liable for the payment of the debt. 175M389, 221NW534.

Order directing special execution on judgment constituting lien against homestead, held proper. 179M30, 228NW168.

A mechanic's lien established by judgment a month prior to filing of voluntary petition in bankruptcy is not affected and may be enforced by special or general execution. *Nadeau v. Ball*, 176M6, 228NW168.

One furnishing material for improvement on farm lands may resort to the farm for payment though it is a homestead. *Steinke-Seidl Lbr. Co. v. N.*, 237NW194. See *Dun. Dig.* 4209.

§13. Private property for public use.

G. S. 1923, §1614, relating to the zoning of cities, and ordinances passed thereunder, held valid. 21F(2d)440.

Setback lines in zoning ordinances, originating from the police power, and not from contract or eminent domain, may cast an uncompensated burden on property. 171M231, 213NW 907.

Property may not be taken in a condemnation proceeding without compensation, or land of another assessed for benefits without a judicial hearing. 171M297, 214NW30.

The amount of traffic on a highway is an element to be considered as bearing upon loss of time and inconvenience to one whose land is divided by such highway. 171M369, 214NW 653.

Land taken for a public cartway is taken for a public purpose although the one to whose land the cartway extends has other access to a public highway. 175M395, 221NW527.

A village approving plans of construction by state highway commissioner of a trunk highway upon a village street and authorizing a change of grade according to such plan, makes itself liable for the damage caused abutting property by such change, in the absence of assumption of such liability by the state. 178M 144, 226NW398.

Where lease provided that it should terminate on taking of property under power of eminent domain the lessee could not recover for the unexpired term on condemnation of the entire property by the city. 178M562, 623, 228 NW162.

Relief by injunction against the laying out of a public street, where nothing has been done except the adoption by the city council of a preliminary resolution appointing commissioners to view the premises and assess benefits and damages, is premature. *Heller v. S.*, 234NW 461. See *Dun. Dig.* 4480.

City could not require railroad, without compensation, to open up street across its right of way. Op. Atty. Gen., Oct. 31, 1930.

A village is liable to the owner of private property for any damage resulting from the improvement of a street. Op. Atty. Gen., June 5, 1931.

Charter provisions of the City of Ely with respect to condemnation of land outside city are valid. Op. Atty. Gen., June 15, 1931.

§16. Rights reserved—Religious freedom.

Requiring the reading of the Old Testament

in every school room, but permitting pupils to leave, during the reading, infringes no constitutional provision. 171M142, 214NW18.

§18. No license to peddle.

Municipality may inspect milk of both producers and dealers in milk and require payment of inspection fee. Op. Atty. Gen., Dec. 11, 1929.

Article 3.—DISTRIBUTION OF THE POWERS OF GOVERNMENT.

§1. Departments of the Government.

Laws 1927, c. 288, (Mason's Minn. Stat. 1927, §§2558-1 to 2558-4) is valid. 174M305, 219NW 172.

Laws 1921, c. 518, [M. S. §106] does not violate this section. 174M583, 219NW916.

It is no objection to an ordinance for the licensing of open-air automobile parking places that it does not prescribe any standards to control the granting and refusing of licenses. 175M386, 221NW423.

Fixing of amount of damages is a step in condemnation proceedings and is at most only quasi judicial. 177M146, 225NW86.

Laws 1929, cc. 267, 424, admitting certain disabled veterans and court reporters to the practice of law without examination, violate this article. 178M331, 227NW179; 178M335, 227NW 180.

Article 4.—THE LEGISLATIVE DEPARTMENT.

§1. Two houses—Sessions.

Parol evidence is inadmissible to show that a legislative bill was passed at a time other than that stated in the legislative journals. Op. Atty. Gen., May 1, 1931.

§6. Adjournments.

Legal holidays are to be included in computing the three-day period. Op. Atty. Gen., Feb. 9, 1931.

House of Representatives could not legally adjourn in the afternoon of Feb. 11, 1931, until the forenoon of Feb. 16, 1931, without the consent of the Senate, it being immaterial that February 12 is holiday. Op. Atty. Gen., Feb. 10, 1931.

§9. Members not to hold certain offices.

State senator cannot hold office of county commissioner, and art. 7, §7, is merely the general rule to which this section creates an exception. 180M246, 230NW637.

Member of legislature cannot occupy position as member of civil service board of Minneapolis. Op. Atty. Gen., June 25, 1929.

A member of the legislature may be appointed as a local appraiser for the department of rural credit. Op. Atty. Gen., Jan. 21, 1930.

State may enter into contracts with members of the legislature for architectural service, consulting engineering service, and construction work. Op. Atty. Gen., May 12, 1931, and May 8, 1931.

Member of the legislature appointed to an office to which he is eligible may become a de facto officer, but does not become a de jure officer upon the termination of his disqualification. Op. Atty. Gen., June 5, 1931.

The office of a member of the 1929 legislature did not terminate until January 1, 1931, and he cannot be eligible to serve as a member of the state building commission created by Laws 1929, c. 301, until January 1, 1932. Op. Atty. Gen., June 5, 1931.

Members of the state legislature are not eligible to serve as members of the state building commission. Op. Atty. Gen., June 5, 1931.

§11. Approval of bills by governor—Veto power.

In computing the three day period in which a bill must be returned, Sunday—not holidays—

is the only day to be excluded. 172M162, 215NW 200.

The requirement that the bill be returned to the house in which it originated does not mean that it must be returned while such house is in session, but the return may be made to the presiding officer, secretary, clerk or to any member of such house. 172M162, 215NW200.

§12. Appropriations, how made.

Act appropriating money for conservation, for establishment, maintenance and improvement of state and semi-state activities. Laws 1931, c. 395.

§22. Bills not to pass on last day of session.

Parol evidence is inadmissible to show that a legislative bill was passed at a time other than that stated in the legislative journals. Op. Atty. Gen., May 1, 1931.

§23. Census—Apportionment.

The alteration of ward lines in a city by the city council cannot affect the boundaries of legislative districts. Op. Atty. Gen., Mar. 20, 1931.

While the legislature may not undertake to reapportion a part of the state without dealing with the rest of the state, still it may change the boundaries of certain particular legislative districts. Op. Atty. Gen., Mar. 20, 1931.

§25. Qualifications of members.

One not a resident of a legislative district was not eligible to be elected as a representative from that district. 175M393, 221NW245.

§27. Laws to embrace but one subject.

The title to the Blue Sky Law (Laws 1925, c. 192) satisfies requirement of this section. 171 M191, 213NW904.

The title to Laws 1925, c. 426, "An act in relation to the organization of the state government," satisfies constitutional requirements. 171 M191, 213NW904.

Title of Laws 1927, c. 394, does not express the subject of the act in so far as it refers to change of age of consent, and act is ineffective to that extent. 173M221, 217NW108.

Title of Laws 1925, Chap. 339, is not defective. 173M322, 217NW342.

Laws 1923, c. 226, is properly entitled and does not offend constitution, art. 4, §27. 175M 305, 221NW13.

Section 10132 applies only to conduct toward male and female persons under 14 years of age, as the amendment of 1927 was invalid as far as it attempted to change ages, in view of insufficiency of title. 176M234, 249, 223NW98.

The subject of chapter 407, Laws 1925, known as the Forestry Act, is sufficiently expressed in its title. 176M472, 223NW912.

Mason's Statutes, §5547, imposing burden of proof upon possessor of furs of fur-bearing animals did not violate this section. 177M398, 225NW435.

Laws 1929, c. 258, does not embrace more than one subject. 178M244, 226NW842.

The classification of counties by chapter 365, Laws 1929, is sufficiently germane to the object of the act to sustain its constitutionality. *Tousley v. H.*, 234NW673. See Dun. Dig. 8920.

"An ordinance relating to disorderly houses and houses of ill-fame and common prostitutes" is not repugnant to the charter provision which requires that the title to an ordinance shall not contain more than one subject. *State v. McDow*, 235NW637. See Dun. Dig. 6783(33).

Laws 1931, c. 382, §§1 and 2, relating to appointment of an assistant attorney general for the division of securities, etc., are invalid as not being embraced within the title of the act. Op. Atty. Gen., July 17, 1931.

§33. Special legislation prohibited.

2. Subsequent to amendment of 1892.

Laws 1927, c. 147, providing for funding by

certain counties of road and bridge indebtedness and issuance of bonds, is valid. 171M312, 213 NW914.

State banking corporations are properly placed in a class by themselves for the purpose of legislation and Laws 1926, Chapter 38, is not class or special legislation. 174M36, 218NW238.

Laws 1927, c. 283, (Mason's Minn. Stat. 1927, §§2558-1 to 2558-4) is valid. 174M305, 219NW 172.

Laws 1913, c. 545, providing that the voters of the district at the annual town meeting may fix the salaries of their school officers in ten-town school districts having less than thirty schools and a high school, is constitutional. 175M316, 221NW231.

Laws 1929, cc. 208, 303, relating to certain villages, do not violate this section. 178M337, 227NW41; 178M342, 227NW202.

Laws 1929, c. 267, 424, admitting certain disabled veterans and court reporters to the practice of law without examination, violate this section. 178M331, 227NW179; 178M335, 227 NW180.

A statute which limits its operation to those who are within its provisions at the time of its passage or within a limited time thereafter is special legislation. 178M335, 227NW180.

Laws 1929, c. 57, relating to firemen's civil service commission in cities of a certain population, held valid. 180M352, 232NW830(2).

Mason's Minn. Stat., §§1726-1 to 1726-5, providing for detachment of lands from a city and school district, held invalid as special legislation. 179M358, 229NW346.

Laws 1929, c. 15, is invalid. 180M44, 230NW 115.

A law is general and uniform in its operation if it operates uniformly upon all subjects within a proper class, but the classification must be based on a substantial distinction. 180M44, 230 NW115.

Basic Science Act (Mason's Minn. Stat., §5705-1 et seq.), held not invalid because of limitation of operation to certain medical practitioners. 181M341, 232NW517. See Dun. Dig. 1675, 7483 (26).

Chapter 67, Laws 1929, permitting the electors of a school district to reimburse its treasurer for moneys paid by him to it on account of loss of school funds in an insolvent bank is valid. 181M523, 233NW802. See Dun. Dig. 1691.

Mason's Stat. 1927, §§1726-6 et seq., providing for detachment of farm land from cities, is not unconstitutional as class or special legislation. *Clinton Falls Nursery Co.*, 236NW195. See Dun. Dig. 1675, 1692, 6521.

§34. General laws.

Laws 1927, c. 147, providing for funding by certain counties of road and bridge indebtedness and issuance of bonds, is valid. 171M312, 213NW914.

174M36, 218NW238, note under §33.

Laws 1929, cc. 208, 303, relating to certain villages, do not violate this section. 227NW41; 227NW202.

Laws 1929, c. 15, is invalid. 180M44, 230NW 115.

A law is general and uniform in its operation if it operates uniformly upon all subjects within a proper class, but the classification must be based on a substantial distinction. 180M44, 230NW115.

Laws 1929, c. 57, relating to firemen's civil service commission in cities of a certain population, held valid. 180M352, 230NW830(2).

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Mason's Stat. 1927, §§1726-6, et seq., providing for detachment of agricultural lands from cities, is not unconstitutional as class or special legislation. *Clinton Falls Nursery Co.*, 236NW195. See Dun. Dig. 1675, 1692, 6521.

§36. Cities and villages may adopt charters—Classification of cities for legislative purposes.

This section held not to authorize a city to pass an ordinance requiring landowners to sheath-pile excavation so as to protect walls on adjoining property. 172M428, 215NW840.

Provision in home rule charter recognizing validity of municipal contract in which officer is interested is unconstitutional, in view of Mason's Minn. Stat., §10305. Op. Atty. Gen., Feb. 10, 1930.

The validity of a charter provision adopted under this section, held not required to be tried before a court of three judges as required by Mason's Code 28, §380. 32F(2d)748.

Section 6578-1 sufficiently protects landowner against any taking of his property without compensation first paid or secured. 177M146, 225NW86.

Fixing of amount of damages is a step in condemnation proceedings and is at most only quasi judicial. 177M146, 225NW86.

Laws 1929, c. 57, relating to firemen's civil service commission in certain cities, held valid. 180M352, 230NW830(2).

Minneapolis home rule charter, c. 13, §4, held not to apply to a school building and hence the board of education is not required to submit the location and design of the building to the planning commission for approval. 181M576, 233NW 834. See Dun. Dig. 8656.

An ordinance of the city of St. Paul providing for the punishment of a person convicted of driving an automobile while under the influence of intoxicating liquor, is valid. State v. H., 233NW874. See Dun. Dig. 1682.

Charter provisions of the City of Ely with respect to condemnation of land outside city are valid. Op. Atty. Gen., June 15, 1931.

Curative Act.

Laws 1929, c. 40, legalizes certain appropriations made by cities of the first class for promoting industrial and commercial development.

For validation of bonds authorized by vote on a proposition providing for the issuance of an aggregate for two or more distinct improvements, see Laws 1929, c. 112; Laws 1929, c. 126.

Port Authority created for cities of over 50,000 population. See Laws 1929, c. 61.

Airports. See Laws 1929, c. 125; c. 217; c. 379.

Act relating to certain charter elections held under this section. Laws 1931, c. 145.

Act legalizing conveyances of city of fourth class operating under home rule charter pursuant to this section. Laws 1931, c. 361.

Article 5.—THE EXECUTIVE DEPARTMENT.

§4. Powers and duties of governor.

Vacancy in office of village justice is to be filled by village council. Op. Atty. Gen., Dec. 20, 1929.

Powers of pardon board extend only to offenses against the state, and do not apply to municipal ordinances. Op. Atty. Gen., Apr. 8, 1931.

§8. Oath of office.

A director of an independent school district who has taken an oath of office need not take a second oath when chosen as treasurer by the members of the school board. 171M376, 214NW 258.

A public officer, on conviction of violation of the federal liquor laws, forfeits his office. Op. Atty. Gen., Feb. 10, 1930.

Article 6.—THE JUDICIARY.

§1. Courts.

Fixing of amount of damages is a step in condemnation proceedings and is at most only quasi judicial. 177M146, 225NW86.

§2. Supreme Court.—The supreme court

shall consist of one chief justice and six associate justices. It shall have original jurisdiction in such remedial cases as may be prescribed by law, and appellate jurisdiction in all cases, both in law and equity, but there shall be no trial by jury in said court. It shall hold one or more terms in each year, as the legislature may direct, at the seat of government, and the legislature may provide, by a two-thirds vote, that one term in each year shall be held in each or any judicial district. It shall be the duty of such court to appoint a reporter of its decisions. There shall be chosen, by the qualified electors of the state, one clerk of the supreme court, who shall hold his office for the term of four years, and until his successor is duly elected and qualified; and the judges of the supreme court, or a majority of them, shall have the power to fill any vacancy in the office of clerk of the supreme court until an election can be regularly had.

Amendment proposed by Laws 1929, c. 430. Adopted at election held Nov. 4, 1930. Promulgated Nov. 20, 1930.

A violation of a city ordinance is an offense against the city and a right of appeal may be denied. 175M222, 220NW611.

§4. Judicial districts—District court judges.

Legislature may impose limitations upon the manner in which district judges shall exercise their judicial power. 173M271, 217NW351.

Op. Atty. Gen., Nov. 9, 1929; note under Const., art. 6, §12.

§6. Jurisdiction of district courts.

A violation of a city ordinance is an offense against the city and a right of appeal may be denied. 175M222, 220NW611.

§7. Probate courts.

District court has right to determine title to homestead pending proceeding in probate court to administer estate of decedent. 171M182, 213 NW736.

The probate court has authority to direct guardians of minors and incompetent persons to require bonds to secure deposits of funds of their wards in banks. 176M541, 224NW152.

The presentation of a claim by the guardian in probate court against the estate of his deceased ward, after his final account as guardian had been settled, whereby the guardian seeks to recover compensation for services rendered to his ward in addition to the allowance made to him for services in the order settling his account, is a collateral attack on such order. Trapp v. T., 235NW29. See Dun. Dig. 4125a(21).

An order duly made by the probate court settling the final account of a guardian is conclusive on the guardian, and cannot be attacked collaterally by him. Trapp v. T., 235NW29. See Dun. Dig. 4125a(21).

Proof of an understanding or agreement of the parties that plaintiff's claim need not be included in the guardian's account would be permissible only in a direct attack upon the order of the probate court settling the account. Trapp v. T., 235NW29. See Dun. Dig. 4125a(21).

The probate court has jurisdiction to order coadministrators to hold and distribute estate funds jointly. Wilson v. S., 236NW701. See Dun. Dig. 7771, 7778.

§8. Justices of the peace.

Justice of the peace in Golden Valley has no jurisdiction of an offense committed in Minneapolis, by waiver or otherwise. 174M608, 219 NW452.

Vacancies in offices of village justices created by Laws 1929, c. 413. Op. Atty. Gen., Dec. 20, 1929.

A municipal court organized under the general law has no jurisdiction of gross misde-

meanors punishable by a fine in excess of \$100, or by imprisonment in excess of three months. State ex rel. v. Morical, 324NW453. See Dun. Dig. 6900b(63).

§10. Vacancies.

Provision in Mason's Stat. 1927, §217, for filling of vacancy by appointment "for the unexpired term" conflicts with this section. Op. Atty. Gen., May 23, 1929.

Vacancies in office of village justice are to be filled by village council. Op. Atty. Gen., Dec. 20, 1929.

§12. Change of judicial districts.

Legislature in rearranging judicial districts cannot vacate the office of any judge, but such judge may be assigned to a certain district even be filled by village council. Op. Atty. Gen., Nov. 9, 1929.

Article 7.—ELECTIVE FRANCHISE.

§1. Persons entitled to vote.

If Mason's Min. Stat., §839, be construed as requiring a county commissioner, who is a candidate for the office of county treasurer, to resign his office before the primary election, it is unconstitutional. Op. Atty. Gen., March 22, 1930.

The right to vote should not be denied on account of mere technicalities, such as the failure to designate a polling place and election officers. Op. Atty. Gen., May 22, 1930.

Blank lines should be provided below the names of candidates in elections under §§1805 to 1811. Op. Atty. Gen., Dec. 2, 1930.

Persons moving from one precinct to another in a city less than thirty days before any election cannot vote at such election. Op. Atty. Gen., Mar. 31, 1930.

§2. Persons not entitled to vote.

Person confined in jail for a misdemeanor may cast his ballot under the absent voters' law. Op. Atty. Gen., May 31, 1930.

A guardianship of the person, as distinguished from guardianship of the estate, disqualifies from voting. Op. Atty. Gen., July 3, 1930.

Person convicted in federal court cannot vote or hold office. Op. Atty. Gen., Apr. 3, 1930; Apr. 21, 1930.

One not adjudged insane or mentally incompetent by the court is entitled to vote, notwithstanding that his property might be subject to the control of a guardian. Op. Atty. Gen., Mar. 18, 1931.

§3. Residence not lost.

Person confined in jail for a misdemeanor may cast his ballot under the absent voters' law. Op. Atty. Gen., May 31, 1930.

§4. Soldiers and sailors.

The Motor Vehicle Registration Tax Law, held valid and applicable to vehicles owned by members of the military forces of the United States residing on the Fort Snelling military reservation and using the highways of the state for their personal business and pleasure. 283 US57, 51SCR354, aff'g 180M281, 230NW572. See Dun. Dig. 4167a, 9576d.

§7. Eligibility to office.

Offices of county commissioner and treasurer of school district are incompatible. 157M263, 196NW467.

Offices of county commissioner and court bailiff (deputy sheriff) are incompatible. Op. Atty. Gen., Dec. 31, 1930.

Art 4, §9, creates an exception to this section. State ex rel. v. Erickson, 230NW637.

Offices of county surveyor and county highway engineer are incompatible. Op. Atty. Gen., Jan. 10, 1930.

The office of member of state live stock sanitary board and the office of member of state fair

board of managers are not incompatible. Op. Atty. Gen., Jan. 13, 1930.

The office of deputy clerk of the district court and the office of court commissioner are not incompatible. Op. Atty. Gen., Jan. 31, 1930.

The office of city attorney and that of judge of probate are not incompatible. Op. Atty. Gen., March 7, 1930.

If Mason's Minn. St., §839, be construed as requiring a county commissioner who is a candidate for the office of county treasurer to resign his office before the primary election, it is unconstitutional. Op. Atty. Gen., March 22, 1930.

The office of village recorder is incompatible with that of county auditor. Op. Atty. Gen., Apr. 16, 1930.

The office of justice of the peace and the office of guard at the state reformatory are not incompatible. Op. Atty. Gen., May 7, 1930.

Blank lines should be provided below the names of candidates in elections under §§1805 to 1811. Op. Atty. Gen., Dec. 2, 1930.

Office of member of school board and that of mayor or member of city council are not, as a matter of law, incompatible, but the holding of the two offices might be embarrassing in case of contract between school board and city council. Op. Atty. Gen., Dec. 27, 1930.

Person convicted in federal court cannot vote or hold office. Op. Atty. Gen., Apr. 3, 1930; Apr. 21, 1930.

Offices of village marshal and street commissioner are not incompatible. Op. Atty. Gen., Feb. 25, 1931.

House File No. 1122, providing that any officer having alcoholic beverages in his possession shall forfeit his office, would be unconstitutional if passed. Op. Atty. Gen., March 30, 1931.

Office of judge of municipal court organized under Laws 1895, chapter 229, section 34, is not incompatible with office of member of school board of an independent school district. Op. Atty. Gen., April 15, 1931.

Offices of city attorney and member of board of regents of state university are not incompatible. Op. Atty. Gen., April 27, 1931.

Offices of county attorney and city or village attorney of a municipality within the county are incompatible, but a city or village may employ a county attorney on a specific case which does not affect the county. Op. Atty. Gen., May 7, 1931.

A county commissioner, or any other county officer, may accept employment from a school board as driver of a school bus. Op. Atty. Gen., July 15, 1931.

Article 8.—SCHOOL FUNDS, EDUCATION AND SCIENCE.

§1. Uniform system of public schools.

Minneapolis home rule charter, c. 13, §4, held not to apply to a school building and hence the board of education is not required to submit the location and design of the building to the planning commission for approval. 18M576, 233 NW834. See Dun. Dig. 8656.

§3. Public schools in each township—No appropriation for sectarian schools.

Requiring the reading of the Old Testament in every school room, but permitting the pupils to absent themselves during the reading, does not infringe this provision. 171M142, 214NW18.

Minneapolis home rule charter, c. 13, §4, held not to apply to a school building and hence the board of education is not required to submit the location and design of the building to the planning commission for approval. 181M576, 233 233NW834. See Dun. Dig. 8656.

§4. University of Minnesota.

The board of regents, in the management of the University, is constitutionally independent of all other executive authority, and Laws 1925, c. 426, is unconstitutional insofar as it attempts to subject the control of University finances to the commission of administration and finance, in view of Laws 1851, c. 3. 175M259, 220NW951.

The Constitution vests the government of the University of Minnesota in the Board of Regents, following *State v. Chase*, 175M259, 220 NW951; and in the exercise of its granted power of government, so long as it keeps within the limits of its grant, it is not subject to legislative or executive interference or judicial control at the suit of a taxpayer. *Fanning v. U. of M.*, 236NW217. See *Dun. Dig.* 8694.

In the exercise of its power of government, the Board of Regents may construct a dormitory upon the University campus without legislative authority. *Fanning v. U. of M.*, 236NW 217. See *Dun. Dig.* 8694.

University may insure property against fire and tornado regardless of legislative action, if premiums are not paid out of legislative appropriations. *Op. Atty. Gen.*, Nov. 4, 1929.

§6. Investment of school funds.

Act to legalize real estate mortgages made to school district trustees. *Laws* 1931, c. 230.

§8. Exchange of public lands [Proposed].

Laws 1929, c. 431, proposes an amendment to this article to authorize exchange of public lands of the state for lands of the United States. Proposed amendment defeated at election.

Laws 1931, c. 417, proposes an amendment by adding a §8 to article 8, relating to exchange of lands with the United States, the proposal to be submitted at the general election in 1932.

Article 9.—FINANCES OF THE STATE AND BANKS AND BANKING.

§1. Power of taxation.

Laws 1931, c. 420, proposes amendment relating to taxation of national banks and income and franchise taxes, to be submitted at general election in 1932.

1. In general.

The term "Church Property" has reference to the use of the property for the purposes of the church organization, and where a lot and dwelling owned by a church is rented for dwelling purposes and the rental used by the church in support of its religious exercises, it is not exempt from taxation. 173M40, 216NW326.

174M509, 219NW872.

To render property exempt it must not only be used for a charitable purpose but it must be held by an institution of purely public charity. A trust instrument devoting certain lands to use as a summer camp for various children's organizations, held not obligatory so as to render the land exempt from taxation. *Op. Atty. Gen.*, May 19, 1930.

Property used by a church for Sunday school classes, for doing social work, and for the publication of a church paper, held exempt. *Op. Atty. Gen.*, May 20, 1930.

Bonds and notes given by a church for money borrowed by it are not exempt in the hands of investors. *Op. Atty. Gen.*, June 16, 1930.

Whether houses and lots occupied by employees of Carleton college as a part of their compensation are exempt is a question of fact dependent on the necessity of the college furnishing the residences in order to operate the institution. *Op. Atty. Gen.*, July 7, 1930.

City ordinance requiring license fee of \$100 per year be paid for the operation of a gasoline filling station, held unreasonable and invalid. 177M539, 225NW904.

Laws 1929, c. 258, establishing a state wild life preserve in certain counties and authorizing acquisition by the state of unredeemed delinquent lands, etc., does not violate this section. 178M244, 226NW633.

Land owned and used by Boy Scouts of America is not exempt from taxation. *Op. Atty. Gen.*, Aug. 11, 1930.

Property of Young Men's Christian Association used for boys' camp is not exempt from taxation. *Op. Atty. Gen.*, Aug. 11, 1930.

State may adopt an income tax law without constitutional amendment. *Op. Atty. Gen.*, Feb. 17, 1931.

Farm lands acquired by state through foreclosure of mortgages are not subject to taxation. In re *Lands Polk Co.*, 234NW691. See *Dun. Dig.* 9151a.

Property purchased by an institution under a contract for a deed is not exempt from taxation. *Op. Atty. Gen.*, July 20, 1931.

2. Special assessments—173M67, 216NW607.

A corner lot may be assessed for a sewer on two sides. *Op. Atty. Gen.*, April 15, 1931.

City of Austin under its charter could not re-surface a paved street and pay for it out of the general fund, but must assess the cost against property benefited. *Op. Atty. Gen.*, April 28, 1931.

5. Classification—Uniformity.

Laws 1927, c. 228 (Mason's *Minn. Stat.*, 1927, §§2558-1 to 2558-4) is valid. 174M305, 219NW 172.

Tax imposed by *Laws* 1923, c. 226, not invalid. 175M305, 221NW13.

Laws 1929, c. 361, excepting from the operation of the gross earnings tax on express companies the license tax on vehicles using the highways, held unconstitutional. 180M268, 230 NW815.

§5. Public debt; gasoline tax; disposition of proceeds.—For the purpose of defraying extraordinary expenditures, the state may contract public debts, but such debts shall never, in the aggregate, exceed two hundred and fifty thousand dollars; every such debt shall be authorized by law, for some single object, to be distinctly specified therein; and no such law shall take effect until it shall have been passed by the vote of two-thirds of the members of each branch of the Legislature, to be recorded by yeas and nays on the journals of each house respectively; and every such law shall levy a tax annually sufficient to pay the annual interest of such debt, and also a tax sufficient to pay the principal of such debt within ten years from the final passage of such law, and shall specially appropriate the proceeds of such taxes to the payment of such principal and interest; and such appropriation and taxes shall not be repealed, postponed, or diminished, until the principal and interest of such debt shall have been wholly paid. The state shall never contract any debts for works of internal improvements, or be a party in carrying on such works, except as authorized by Section 16 of Article 9, and by Article 16 of this Constitution, but it may levy an excise tax upon any substance, material, fluid, force or other means or instrumentality, or the business of dealing in, selling or producing any or all thereof, used or useful, in producing or generating power for propelling motor or other vehicles used on the public highways of this state, and shall place two-thirds of the proceeds of such tax in the trunk highway fund provided for in Section 2 of said Article 16, and one-third thereof in the state road and bridge fund, and further except in cases where grants of land or other property shall have been made to the state, especially dedicated by the grant to specific purposes, and in such cases the state shall devote thereto the avails of such grants, and may pledge or appropriate the revenues derived from such works in aid of their completion.

Proposed amendment (Mason's *Statutes* 1927, pp. XLI, XLII) adopted November 6, 1928. Promulgated Dec. 20, 1928.

For act relating to use of money accruing from tax imposed on use of gasoline, see *Laws* 1929, c. 283 (§§2720-88 to 2720-99).

Laws 1919, c. 341, as amended by Laws 1921, c. 109 (§§5604-5609), does not contravene the constitutional provision forbidding the state to engage in works of internal improvement. 173 M559, 218NW123.

Laws 1929, c. 258 (§§5620-1 to 5620-13), establishing a state wild life preserve in certain counties and authorizing acquisition by the state of unredeemed delinquent lands, etc., does not violate this section. 178M244, 226NW633.

§6. Bonds for public debt.

Laws 1929, c. 258 (§§5620-1 to 5620-13), establishing a state wild life preserve in certain counties and authorizing acquisition by the state of unredeemed delinquent lands, etc., does not violate this section. 178M244, 226NW633.

§8. Application of loans.

Laws 1929, c. 265, (§§3036-10 to 3036-16) held to violate this section because of the attempt to divert interest received from rural credit loans to the aid of school districts. State ex rel. v. Sageng, 235NW380. See Dun. Dig. 8848.

Board of Regents of the University may appropriate net earnings of the dormitory and pledge rentals and earnings to the payment of money advanced for dormitory construction and undertake that they shall be so applied, and may evidence its pledge by bonds. Fanning v. U. of M., 236NW217. See Dun. Dig. 8694.

§10. State credit not to be loaned.

Laws 1931, c. 419, proposes amendment authorizing taxation of lands acquired through operation of rural credit system, to be submitted at general election in 1932.

Laws extra sess. 1919, c. 35, (§§125, 126) does not authorize the State Board of Relief to take a note for seed grain furnished by the state to a farmer without such grain or means to procure it, because of the excessive floods which occurred in Marshall County in 1919, and hence is valid. 172M344, 215NW510.

Laws 1929, c. 258, (§§5620-1 to 5620-13) establishing a state wild life preserve in certain counties and authorizing acquisition by the state of unredeemed delinquent lands, etc., does not violate this section. 178M244, 226NW633.

Farm lands acquired by state through foreclosure of mortgages are not subject to taxation. In re Lands Polk Co., 234NW691. See Dun. Dig. 8848.

§12. State and school funds.

Where city treasurer has made deposits in excess of collateral securities given by bank in lieu of a depository bond under §1973-1, city did not have a preferred claim on the theory that the over-deposit was a criminal offense. 172M324, 215NW174.

Const., art. 9, §12, is not self-executing, and what are "suitable laws" is a legislative question. 174M286, 219NW163.

The rigid rule making absolute the liability of a school district treasurer for school funds may be relaxed by the Legislature. State ex rel. v. Kaml, 233NW802. See Dun. Dig. 8678(58).

§13. Banking law.

(3).

Liability of stockholders in state banks. Bank of D. v. M., 235NW914. See Dun. Dig. 796 (83).

Article 10.—CORPORATIONS HAVING NO BANKING PRIVILEGES.

§3. Liability of stockholders.—The Legislature shall have power from time to time to provide for, limit and otherwise regulate the liability of stockholders or members of corporations and co-operative corporations or associations, however organized. Provided every stockholder in a banking or trust corporation or association shall be individually liable in an amount equal to the amount of stock owned by him for all debts of such cor-

poration contracted prior to any transfer of such stock and such individual liability shall continue for one year after any transfer of such stock and the entry thereof on the books of the corporation or association.

Amendment proposed by Laws 1929, c. 429, adopted at election held Nov. 4, 1930. Promulgated Nov. 24, 1930.

Act prescribing liability of stockholders under this section: Laws 1931, c. 210 (§§7465-1, 7465-2).

32F(2d)665, 180M250, 230NW645(2).

Commissioner of banks was authorized to enforce the individual liability of stockholders, and to attach property held in trust for stockholders. 172M83, 214NW771.

Laws 1925, c. 333, authorizing corporations to issue non par stock, does not contravene Const., art. 10, §3. 172M303, 215NW185.

Where increase of stock was invalid, there was no double liability as to the increase. 172 M334, 215NW428.

The test as to whether a Minnesota corporation is authorized to do an exclusively manufacturing business so that its stockholders are not subject to a double liability, is whether, under its articles of incorporation, the corporation can maintain the right to conduct other than a manufacturing business against the objection of the state or dissenting stockholders. 172M394, 215 NW521.

Exploring for iron and other ores, and dealing in mineral lands as an incident, is not a "manufacturing business" nor so closely related to manufacturing as to be incidental thereto. The articles of incorporation in this case held to permit the defendant corporation to engage in other than a manufacturing business or a mechanical business incidental thereto, and its stockholders are subject to double liability. 173 M1, 216NW325.

The superadded liability is contractual in its nature and is assumed by one becoming a stockholder. 173M603, 218NW121.

The provision for a superadded stockholder's liability creates a substantive right, enforceable in any court of competent jurisdiction as an incident of a receivership. 173M603, 218NW121.

A federal court has jurisdiction to empower a receiver of a Minnesota corporation appointed by it to institute actions in state court to enforce constitutional liability, using the remedy provided by state statute. 173M603, 218NW121. Stockholder cannot offset corporation's indebtedness to him. 174M387, 219NW452.

Provision in Mason's St., §7836, for forfeiting and retiring stock of offending stockholder does not free him from double liability. 174M427, 219NW466.

The creditors may waive right to resort to constitutional liability of stockholders and such defense is not determined by the order of assessment, but may be interposed when the receiver brings suit. 175M44, 219NW945.

A voluntary composition agreement between a corporation and its creditors, whereby the corporation transfers all of its property in consideration of being released from all liability on the amounts owing the creditors, waives and releases the constitutional liability of the stockholders. 175M382, 221NW426.

Stockholders were not liable where manufacturing corporation was converted into a mercantile corporation by amendment of the charter. 176M588, 224NW245.

A director, officer, or stockholder of a domestic mining corporation is not debarred from asserting a claim against it when insolvent and may resort to stockholders' double liability. 177 M72, 224NW454.

Court acquired jurisdiction to assess stockholders of insolvent co-operative corporation, even though there was an obvious misprint of the year in the published notice of hearing and no proper proof of personal service of notice. 177M211, 225NW22(2).

Defense that judgment upon which sequestration proceeding was based, was obtained by fraud or collusion, cannot be set up in action to collect assessment. 177M526, 225NW649.

One who was a director of a certain company, was estopped to claim that he was in-

duced through deceit to accept stock in the company and believed that he was stockholder in another company with a similar name. 178M9, 225NW927.

No rights arose in receiver in sequestration proceedings from the fact that corporation issued stock to stockholders as security for a loan, there being no creditor whose claim did not come into existence until after the corporation gave its notes for and canceled the stock. 178M179, 226NW513.

A corporation may buy and sell its own shares, provided it does so in good faith without intent to injure and without in fact injuring its creditors. 178M179, 226NW513.

Representation that corporate stock was not subject to assessment was one of law and there was no larceny. 178M446, 227NW495.

Where stockholder, prior to bankruptcy of corporation, offered to surrender his stock on ground of fraudulent representation, but took no steps to perfect rescission, he had no defense which he could urge against receiver suing to enforce assessment. 179M259, 228NW 917.

One who subscribes to the stock of one corporation and receives that of another does not become a stockholder, and he is not estopped to deny that he is liable as such. 181M316, 232NW 519. See Dun. Dig. 2080a.

Where a purchaser of stock from corporation which has not complied with the Blue Sky Law may recover the money paid, he cannot defend a suit brought by the receiver of the corporation to enforce the stockholders' liability, and it is immaterial that a certificate of stock has not been issued to him. 181M327, 232NW523. See Dun. Dig. 2061.

An active director of a corporation was estopped to deny that he was a stockholder, as respected double liability. Johnson v. B., 234 NW590. See Dun. Dig. 2080, 2080a.

Limitations was not tolled, as against liability of stockholder accruing at appointment of receiver, by reason of continuances and negotiations, on the theory of estoppel, or otherwise. Miller v. A., 235NW622. See Dun. Dig. 2080.

If cause of action for double liability of stockholder accrued at time receiver was appointed, action was barred six years thereafter. Miller v. A., 235NW622. See Dun. Dig. 2080.

Liability of stockholders in state banks. Bank of D. v. M., 235NW914. See Dun. Dig. 796 (84).

A bona fide transferor of stock is not liable for the debts of the bank incurred after the transfer. He is liable for those existing at the time of the transfer and not afterwards paid. Bank of D. v. M., 235NW914. See Dun. Dig. 803(13).

Article 13. — IMPEACHMENT AND REMOVAL FROM OFFICE.

§1. Impeachment of certain state officers.

House File No. 1122, providing that any officer having alcoholic beverages in his possession shall forfeit his office, would be unconstitutional if passed. Op. Atty. Gen., Mar. 30, 1931.

§2. Removal.

House File No. 1122, providing that any officer having alcoholic beverages in his possession shall forfeit his office, would be unconstitutional if passed. Op. Atty. Gen., Mar. 30, 1931.

Article 16.—TRUNK HIGHWAY SYSTEM.

§1. Creation of system.

Reimbursement of counties for money expended by them through boroughs, villages or cities in improving trunk highways. See Laws 1929, c. 122; Laws 1931, cc. 67, 168.

The amount of traffic on a highway is an element to be considered as bearing upon loss of time and inconvenience to one whose land is divided. 171M369, 214NW653.

When a permanent trunk highway is located by the highway commissioner the practicable road along the general location is not thereby vacated, but reverts to the control of the county

or town board as the case may be. 171M369, 214 NW653.

Jury properly permitted to determine acreage involved in determining damages, and verdict held not excessive. 171M369, 214NW653.

This amendment clearly provides that trunk highways shall not extend within the limits of cities of the first class. 175M103, 220NW408.

Subdivisions 3 and 4 of section 13, ch. 323, L. 1921, are entirely consistent with the provisions of the Constitution, article 16. 175M103, 220NW 408.

The title of ch. 530, Laws 1919, submitting this amendment is general and in no way intimates that trunk highways should or should not enter cities. 175M103, 220NW408.

The Railroad and Warehouse Commission may require the construction of an overhead or underground crossing and divide the cost between the railroad company and the highway department. Where a highway is carried over railroad tracks by a bridge, the railroad company may be required to construct the bridge and approaches, but not a part of the highway outside both bridge and approaches. 176M501, 223NW915.

A village approving plans of construction by state highway commissioner of a trunk highway upon a village street and authorizing a change of grade according to such plan, makes itself liable for the damage caused abutting property by such change, in the absence of assumption of such liability by the state. 178M144, 226NW 398.

Followed in 178M430, 227NW357(2).

Route No. 3.

The two cities of Minneapolis and St. Paul adjoining, there is no space or occasion for building any trunk highway to connect one with the other. 175M103, 220NW408.

§2. Fund.

Laws 1929, c. 394, appropriating money out of the trunk highway fund to pay damages to persons injured through negligence of highway department held invalid. 181M409, 232NW718. See Dun. Dig. 8452.

Expenses of motor vehicle division of Department of Secretary of State cannot be paid from funds derived from collection of motor vehicle taxes. Op. Atty. Gen., Feb. 7, 1931.

Laws 1931, c. 306, §7, Item 4, an appropriation for the motor vehicle department, violates this section. Op. Atty. Gen., June 29, 1931.

§3. Taxation of motor vehicles.

Laws 1931, c. 418, proposes an amendment authorizing tax on motor vehicles of companies paying gross earnings tax, to be submitted at general election in 1932.

The Motor Vehicle Registration Tax Law, held valid and applicable to vehicles owned by members of the military forces of the United States residing on the Fort Snelling military reservation and using the highways of the state for their personal business and pleasure. 283US 57, 51SCR354, affirming 180M281, 230NW572. See Dun. Dig. 4167a, 9576d.

Nature of tax. 173M72, 216NW542.

Citizen and resident of the state must pay motor vehicle tax therein, although he spends the major portion of the year with his car in another state. State v. White, 222NW918.

Taxation of motor vehicles in hands of dealers on May 1st. 178M300, 227NW43.

Laws 1929, c. 361, (§§2673-2, 2673-3) excepting from the operation of the gross earnings tax on express companies the license tax on vehicles using the highways, held unconstitutional. 180 M268, 230NW815.

Laws 1931, c. 306, §7, item 4, appropriating \$400,000 for the year 1931 and \$420,000 for the year 1932, from the receipts of the state tax on motor vehicles, is unconstitutional. Op. Atty. Gen., June 29, 1931.

§4. Bonds.

Laws 1929, c. 412, authorizes issues of bonds to retire maturing county highway bonds during the years 1930, 1931, and 1932.